



U.S. Department of Justice

Antitrust Division

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December 8, 2017

VIA ECF

The Honorable Lorna G. Schofield
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No.
13-cv-7789 (LGS); *NYPL, et al., v. JPMorgan Chase & Co., et al.*,
15-cv-9300 (LGS)

Dear Judge Schofield:

The United States Department of Justice, through the Antitrust Division and the Fraud Section of the Criminal Division (“the Department”), respectfully requests a three-month extension of the discovery stay covering certain depositions in the above-referenced matters. The Department submits that the scope of the stay appropriately balances the need to protect the integrity of ongoing grand jury investigations and cases with Plaintiffs’ desire for testimonial discovery prior to the class certification phase.¹ Plaintiffs in the *In re Foreign Exchange* case (13-cv-7789) agree to the Department’s request, while Plaintiffs in the *NYPL* matter (15-cv-9300) oppose it. None of the Defendants in the matters has objected to the stay request.

The scope of the requested stay is consistent with the agreement the Department made with the *In re Foreign Exchange* Plaintiffs in October 2017, pursuant to the Court’s September 8, 2017 Order to “advise Plaintiff on October 23, 2017, to what extent the limitations of this Order can be further narrowed to include fewer employees.” 13-cv-7789, Dkt No. 863. The proposed terms of the stay are as follows:

- Depositions and interviews of current and former employees of seven Defendant banks – Citibank, JPMorgan Chase, Barclays, RBS, UBS, BNP Paribas, and HSBC – are stayed. Individuals who worked for any of the above-referenced

¹ On August 21, 2017, the Department submitted to the Court, under seal and on an *ex parte* basis, an affidavit summarizing the status of these investigations and cases. The reasons for seeking a stay that the Department presented in that affidavit continue to apply.

Hon. Lorna G. Schofield

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seven banks only *prior* to the beginning of the class period (December 2007), however, may be deposed.

- The Department will consider one-off requests for depositions of individuals who are covered by the above stay terms.
- The above does not apply to 30(b)(6) depositions. However, for any 30(b)(6) deposition sought by Plaintiffs, Plaintiffs must copy the Department on any 30(b)(6) deposition notice at the time it is served, so that the Department may object to particular topics that intrude on the ongoing investigations and cases. *See* 13-cv-7789, Dkt. No. 863 (Sept. 8, 2017 Order).
- During the stay, Plaintiffs may request from Defendants – and the stay will not apply to the production of – last known contact information and counsel information for current and former employees. Plaintiffs may not, however, contact such individuals or their counsel, if those individuals are covered by the stay.

To the extent unclear from the above, the Department's requested stay would apply to the recently-noticed depositions by the *NYPL* Plaintiffs.

Respectfully submitted,

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